

Bills seek moratorium on destroying DNA evidence

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OLYMPIA, Wash. — The destruction of DNA evidence in some criminal cases has prompted the introduction of measures in the state House and Senate that would impose an 18-month moratorium on such actions.

The bills, sponsored by Rep. Tina Orwall and Sen. Jeannie Darneille, also would create a work group to recommend permanent, statewide standards for preserving DNA material. The group would present its recommendations to the Legislature and governor by Dec. 1.

Under current law, there is no requirement to preserve DNA evidence after a conviction, though defense attorneys can seek a court order to do so.

The Innocence Project Northwest at the University of Washington's Law School brought the idea to Orwall and Darneille after reviewing about 70 potential DNA cases between 2011 and 2013 and finding that in 25, including murder and rape prosecutions, biological evidence was destroyed in eight cases and lost in one.

The Innocence Project Northwest said most states have varying laws on how long to preserve biological evidence.

Washington is among eight states where evidence is not automatically preserved. Once convicted, defendants must file motions to have evidence preserved for use during possible appeals, said Lara Zarowsky, policy director for Innocence Project Northwest.

Jurisdictions within the state of Washington have different preservation rules, and Zarowsky said there is no guarantee that DNA evidence will be available for testing if cases are appealed.

"If DNA is going to serve this really vital role in our criminal justice system, as it should, then we need to preserve the evidence," she said.

Orwall, D-Des Moines, said she was surprised to learn about inconsistency in how DNA is handled after a conviction.

"It could make the difference in someone being exonerated or remaining in prison," she said.

Her bill is set for a public hearing on Wednesday before the House Public Safety Committee.

Tom McBride, executive secretary of the Washington Association of Prosecuting Attorneys, said his group supports the study proposed in the bills but does not support the moratorium.

He said the language of the bill applies to any item that may include a touch of DNA evidence, ranging from vehicles to broken glass that may later be ruled out of a case. As a result, "the commitment of scarce resources is greater than the actual benefit that will be seen," he said.

"If our concern is getting to the truth, let's test any potentially significant items at the time we are evaluating all evidence — not mandate saving a single piece of evidence for review later," he said in an email.

Darneille, D-Tacoma, said she understands the concerns of the prosecutors but thinks critics are "overly cautious that this is going to create a burden of work without proving that it's a burden of work."

The DNA preservation bills are House Bill 2468 and Senate Bill 6310.

Read more here: <http://www.tri-cityherald.com/2014/01/27/2795060/bills-seek-moratorium-on-destroying.html#storylink=cpy>